

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

CECILIA LOPEZ,

Plaintiff,

v.

**ANSWER WITH
AFFIRMATIVE DEFENSES**

Index No.: E2021/005514

TARGET CORPORATION,

Defendant.

The defendant, Target Corporation, hereinafter referred to as “this defendant”, by its attorneys, Hurwitz & Fine, P.C., as and for an answer to the complaint of the plaintiff, CECILIA LOPEZ, herein states the following:

1. Denies having knowledge and information sufficient as to the allegations contained in paragraph “1”.
2. Admits the allegations contained in paragraph “2”.
3. Denies each and every allegation contained in paragraph “3”.
4. Denies the allegations contained in paragraphs “4”.

AS AND FOR A RESPONSE TO THE FIRST CAUSE OF ACTION:

5. As and for an answer to paragraph "5", this defendant repeats and realleges its answers to paragraphs "1" through "4" with the same force and effect as if fully set forth herein.
6. Denies each and every allegation contained in paragraphs “6”, “7”, “8” and “9”.

**AS AND FOR A FIRST SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THIS DEFENDANT ALLEGES,
UPON INFORMATION AND BELIEF:**

7. The plaintiff's injuries, if any, were caused in whole or in part by a person or persons who are not within the control of this defendant.

**AS AND FOR A SECOND SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THIS DEFENDANT ALLEGES,
UPON INFORMATION AND BELIEF:**

8. That pursuant to §4545 and other applicable sections of the CPLR, this defendant is entitled to a set off against the amount of any verdict of any monies collected from a collateral source of payment as set forth in said law.

**AS AND FOR A THIRD SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THIS DEFENDANT ALLEGES,
UPON INFORMATION AND BELIEF:**

9. Plaintiff has failed to mitigate her damages.

**AS AND FOR A FOURTH SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE, THIS DEFENDANT ALLEGES,
UPON INFORMATION AND BELIEF:**

10. The injuries and/or damages alleged in the plaintiff's complaint were caused in whole or in part by the culpable conduct, want of care and assumption of risk on the part of the plaintiff, and without negligence, fault or want of care on the part of this defendant.

WHEREFORE, the defendant, demands judgment as follows:

1. Dismissing the complaint herein; or
2. Determining the ultimate rights and responsibilities among the parties, including the culpable conduct of the plaintiff and that of any tortfeasor jointly liable and further demands that if plaintiff recovers judgment against the answering defendant, the amount of damages be diminished in the proportion which the culpable conduct attributable to plaintiff bears to the culpable conduct which caused the damage;

3. Reducing plaintiff's recovery in the proportion to which the plaintiff's culpable conduct, assumption of risk and want of care bears to the culpable conduct which caused the plaintiff's damages; and

4. Such other and further relief as to this court may seem just proper and equitable, together with the costs and disbursements of this action.

DATED: Buffalo, New York
July 19, 2021

HURWITZ & FINE, P.C.

By:



Jody E. Briandi
Attorneys for Defendant
1300 Liberty Building
Buffalo, NY 14202
(716) 849-8900

TO: Edward J. Schwendler, III, Esq.
SCHWENDLER DOOLITTLE LAW GROUP, PLLC
Attorneys for Plaintiff
1207 Delaware Avenue, Ste.222
Buffalo, New York 14209
(716) 320-1671